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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,374	01/16/2001	Brian J. Deen	13768.156	5333

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EXAMINER

TRAN, TONGOC

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,374

Applicant(s)

DEEN ET AL.

Examiner

Tongoc Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

RD

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on march 30, 2005. Claims 1-26 are pending.

Response to Arguments

2. Applicant's arguments filed 3/30/2005 have been fully considered but they are not persuasive.

In response to applicant's argument to independent claim 1 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Tsumpes teaches an automated parallel and redundant subscriber contact and event notifications system that will allow the system subscriber himself to preprogram and control the operations of the systems and to control the manner in which he wishes to receive the event specific notification services including the desired communication channels... (Tsumpes, col. 3, lines 5-13). Even though Tsumpes does not explicitly specify that the subscribers desires to be notified through wireless protocol if the transmission of wireless protocol is successful and transmission of wire protocol if the transmission is not successful. Tsumpes

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further teaches that the reason for the parallel and redundant subscriber contact is to "ensure that in the event that one specific location should be rendered inoperable or inaccessible to communication channels..." (Tsumpes, col. 3, lines 25-27). Since the subscriber has the choice to decide what channel of communications to receive the service and if one channel of communication can ensure the user to receive the service at the desired channel communication choice taught by Running through wireless acknowledgement and the provision of upgrading to wire from wireless without delay as taught by the system of Sulfated. It would have been obvious to one of ordinary skill in the art that the subscriber would choose to receive the service through wireless communication if it is successful or wired communication if it is not successful instead of redundantly receiving the service through various channel of communications.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7, 10-11, 16, 19-20 and 26 are rejected under 35 U.S.C.

103(a) as being unpatentable over Tsumpes (U.S. Patent No. 6,843,355) in view of Running (U.S. Patent No. 6,804,707) and Sulfated (U.S. Patent No. 5,326,027).

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In respect to claim 1, Tsumpes discloses in a network system including a server system and a client system, wherein the server system monitors the occurrence of events, sends notification to the client system after one of the monitored events occurs, a method for efficiently notifying the client system of the occurrence of a monitored event, so as to provide notification in a manner preserving the processing capacity of the server system and the client system, and preserving bandwidth on the network system, the method comprising (e.g. Abstract and col. 3, line 1-col. 4, line 25):

an act of the client system sending request to the server system, wherein the request is that the server system transmit a packet of data to the client system using a connectionless protocol; an act of the client system attempting to receive a packet of data from the server system, wherein the packet of data is sent using a connectionless protocol; an act of the client system requesting that notifications be sent, using the connectionless protocol and connection protocol (e.g. col. 6, lines 10-58 and col. 8, lines 25-33); Tsumpes does not explicitly disclose using the connectionless protocol, if the attempt to receive the packet of data is successful; and using connection oriented protocol, if the attempt to receive the packet of data is not successful. However, Running discloses sending data packet to wireless recipients, request acknowledgment from the recipients and then transmit task status information to the senders (Running, col. 4, lines 40-46). Furthermore, Sulfstede discloses a system controller that allows consumer to automatically changes from a wireless remote controller to a wired

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remote controller should the wireless remote controller fail (Sulfstede, col. 1, lines 22-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of acknowledgment from wireless recipients taught by Ronning and automatically changing remote controller from wireless to wired in event of failure taught by Sulfstede with an automated parallel and redundant subscriber contact in an event notification system taught by Tsumpes to be cost effective and limiting redundant communication.

In respect to claim 2, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1, wherein the act of the client system requesting notifications be sent using a connection oriented protocol, further comprises an act of the client system attempting to establish a connection to the server system using the connection-oriented protocol (e.g. Tsumpes, col. 6, lines 10-58).

In respect to claim 7, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1, wherein the act of the client system requesting that notifications be sent using the connectionless protocol comprises an act of making an express request that notifications be sent using the connectionless protocol (e.g. Tsumpes, col. 6, lines 10-58).

In respect to claims 10-11, 16 and 20-21, the claim limitations are substantially similar to claims 1-2 and 7. Therefore, claims 10-11, 16 and 20-21 are rejected based the similar rationale.

In respect to claim 19, Tsumpes, Ronning and Sulfstede disclose the method as recited to claim 10, wherein the step for the client system to determine

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if communication can be received from the server system using the connectionless protocol comprises the following: an act of the client system sending a request to the server system, wherein the request is that the server system transmit a packet of data to the client system using a connectionless protocol; and an action of the client system attempting to receive a packet of data from the server system, wherein the packet of data is sent using a connectionless protocol (e.g. col. 6, lines 10-58).

In respect to claim 26, Tsumpes, Ronning and Sulfstede disclose the computer product as recited in claim 20, wherein the computer-readable medium comprises one or more physical storage media (e.g. col. 5, lines 47-54).

4. Claims 3-4, 12-13 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsumpes (U.S. Patent No. 6,643,355) and Ronning (U.S. Patent No. 6,804,707) and Sulfstede (U.S. Patent No. 5,326,027) and further in view of Carlson (U.S. Patent No. 6,697,849).

In respect to claim 3, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 2, Tsumpes, Ronning and Sulfstede do not disclose but Carlson discloses an act of the client system polling the server system at time intervals to check for data associated with the occurrence of events; and an act of the client system requesting the data associated with occurrence of events be transmitted to the client system (e.g. col. 17, lines 10-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Carlson's method for responding to client requests with Tsumpes'

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method for responding to requested notifications to gain the advantage of constant dynamic monitoring of events which provides the client with real-time reports of collected information (Carlson, col. 3, line 66-col. 4, line 17). This real-time reporting gives the client the chance to quickly respond to an event.

In respect to claim 4, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1. Tsumpes, Ronning and Sulfstede do not disclose but Carlson discloses wherein the attempt to receive the packet of data is not successful if the packet of data is not received within a pre-specified period of time (Carlson, col. 16, lines 50-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Carlson's specified period of time allowed to receive the packet of data with the teaching of Tsumpes for notifying the subscriber when monitored events occur to prevent waiting for a response that will never come (Carlson, col. 16, lines 60-63).

In respect to claims 12-13 and 22-23, the claim limitations are substantially similar to claims 3 and 4. Therefore, claims 12-13 and 22-23 are rejected based on the similar rationale.

5. Claims 5-6, 14-15 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsumpes (U.S. Patent No. 6,643,355) in view of Ronning (U.S. Patent No. 6,804,707) and Sulfstede (U.S. Patent No. 5,326,027) and further in view of Wesley (U.S. Patent No. 6,076,114).

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In respect to claims 5 and 6, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1. Tsumpes, Ronning and Sulfstede do not disclose but Wesley discloses wherein the connection protocol is TCP and the connectionless protocol is the User Datagram Protocol (e.g. col. 4, lines 10-31). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Wesley's teaching of using TCP for wired protocol and UDP for wireless protocol with Tsumpes' teaching of notifying the subscriber when monitored events occur because TCP performs better in wired network and UDP performs better in wireless network (Wesley, col. 4, lines 10-12).

In respect to claims 14-15 and 24-25, the claim limitations are substantially similar to claims 5 and 6. Therefore, claims 14-15 and 24-25 are rejected based on the similar rationale.

6. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsumpes (U.S. Patent No. 6,643,355) in view of Ronning (U.S. Patent No. 6,804,707) and Sulfstede (U.S. Patent No. 5,326,027) and further in view of Schillaci et al. (U.S. Patent No. 5,703,929).

In respect to claim 8, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1. Tsumpes, Ronning and Sulfstede do not disclose but Schillaci discloses the server is configured to, by default, send notification using a connectionless protocol absent any instruction to contrary (e.g. Abstract and col. 5, lines 1-16). It would have been obvious to one of ordinary skill in the

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art at the time the invention was made to incorporate Schillaci's teaching of using wireless communication as default with Tsumpes' teaching of notifying subscriber when monitored events occur for the benefit of encountering emergency situation when there is power failure.

In respect to claim 17, the claim limitation is substantially similar to claim 8. Therefore, claim 17 is rejected based on the similar rationale.

7. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsumpes (U.S. Patent No. 6,643,355) in view of Ronning (U.S. Patent No. 6,804,707) and Sulfstede (U.S. Patent No. 5,326,027) and further in view of Holmes (U.S. Patent No. 6,334,056).

In respect to claim 9, Tsumpes, Ronning and Sulfstede disclose the method as recited in claim 1. Tsumpes, Ronning and Sulfstede do not disclose but Holmes discloses wherein the client system resides in a private network protected by a firewall, wherein communications using the connectionless protocol are blocked by the firewall from entering the private network (e.g. col. 5, lines 3-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Holmes to protect the private network by the firewall from unknown wireless service provider with Tsumpes' teaching of notifying subscriber when monitored events occur to protect the network within the intranet (Holmes, col. 5, lines 10-12).

In respect to claim 18, the claim limitation is substantially similar to claim 9. Therefore, claim 18 is rejected based on the similar rationale.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (571) 272-3843. The examiner can normally be reached on 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Tongoc Tran
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July 11, 2005


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100